

AMENDMENTS TO THE DRAWINGS

Amended drawings are found in an Appendix to this Response. Figure 6 has been amended to include textual labels as requested by the examiner. The textual labels for elements 18, 22, 36, 38, 40, 58, and 60 have been placed next to the corresponding reference numeral. Accordingly, the examiner's objection to the drawings has been traversed.

REMARKS

Summary of the Examiner's Actions

The examiner objected to the drawings under 37 C.F.R. § 1.83(a) for failing to include text labeling in Figure 6. Applicant acknowledges the objection.

The examiner rejected Claims 1, 2, and 8-12 under 35 U.S.C. § 102(b) as being anticipated by Sloan, et al., U.S. Patent Number 3,336,530 ("Sloan"). Applicant acknowledges the rejection under 35 U.S.C. § 102(b).

The examiner rejected Claims 3 and 13 under 35 U.S.C. § 103(a) as being obvious under Sloan, in view of Vogt, U.S. Patent Number 4,853,685 ("Vogt"). Applicant acknowledges the rejection under 35 U.S.C. § 103(a).

The examiner rejected Claims 6 and 7 under 35 U.S.C. § 103(a) as being obvious under Sloan, in view of Murai, U.S. Patent Number 4,234,876 ("Murai"). Applicant acknowledges the rejection under 35 U.S.C. § 103(a).

The examiner objected to Claims 4 and 5 as being upon a rejected base claim and indicated that Claims 4 and 5 would be allowable if rewritten in independent form include all of the limitations of the base claim and any intervening claims. Applicant appreciates such indication.

The examiner allowed Claims 14-22. Applicant appreciates such indication.

Rejections under 35 U.S.C. § 102(b)

The examiner rejected Claims 1, 2, and 8-12 as being anticipated by Sloan. Section 2131 of the Manual of Patent Examining Procedure describes the basis for anticipation under 35 U.S.C. § 102. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim. *In re Bond*, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990).

Sloan discloses a direction finding system for hunting dogs. As disclosed in Sloan, the direction finding system produces two different pulse rates (outputs) depending upon the activity of the animal. Sloan, col. 3, lines 34-40 and 66-73. A "jiggle" switch determines the activity of the animal. *Id.* at lines 46-74. The jiggle switch has an electrically-conductive weight mounted on a spring. *Id.* at 55-56. The weight oscillates in response to movement and an electrical contact is made between the two terminals of the switch when the weight touches the sidewall. *Id.* at 57-66.

Sloan does not anticipate Claim 1 because Sloan does not disclose each element and the elements are not arranged as required by the claim. Claim 1 clearly calls for two electrical contacts within the enclosure of the vibration switch that are electrically insulated from the sidewall. Referring to Figure 3 of Sloan, it is clear that conductor 42 (terminal B) is in direct electrical contact with the sidewall 30, forming a mere extension of the sidewall. Sloan does not disclose two electrical contacts electrically insulated from the sidewall. Further, Figure 3 of Sloan clearly shows that no portion of conductor 40 is located within the enclosure. Sloan does not disclose two conductors disposed within the enclosure. Because at least one limitation of Claim 1 is not described, either expressly or inherently, Sloan does not anticipate Claim 1. Claims 2 and 8-11 properly depend, either directly or indirectly, from Claim 1, an independent claim believed by Applicant to be allowable over the cited prior art. Accordingly, Applicant respectfully requests that the examiner withdraw the rejection of Claims 1, 2, and 8-11 under 35 U.S.C. § 102(b).

Claim 12 has been cancelled without prejudice. Accordingly, the examiner's rejection of Claim 12 under 35 U.S.C. § 102(b) has been rendered moot.

Rejections under 35 U.S.C. § 103(a)

In order to support a rejection under 35 U.S.C. § 103(a), "the examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness." MPEP § 2142, pg. 2100-121, 8th ed. "To reach a proper determination under 35 U.S.C. § 103(a), the examiner must step backward in time and into the shoes worn by the hypothetical 'person of ordinary skill in the art' when the invention was unknown and just before it was made." *Id.* The first element in establishing a *prima facie* case of obviousness is that "there must be some suggestion or

motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine reference teachings." MPEP § 2143, pg. 2100-122, 8th ed. The second element is that there "must be a reasonable expectation of success." *Id.* The third element is that "the prior art reference (or references when combined) must teach or suggest all the claim limitations." *Id.*

The relevant facts for finding obviousness relate to (1) the scope and content of the prior art, (2) the level of ordinary skill in the field of the invention, (3) the differences between the claimed invention and the prior art, and (4) any objective evidence of nonobviousness such as long felt need, commercial success, the failure of others, or copying. *Graham v. John Deere Co.*, 148 U.S.P.Q. 459, 467 (1966; see *Continental Can Co. v. Monsanto Co.*, 20 U.S.P.Q.2d 1746, 1750-51 (Fed. Cir. 1991). The Supreme Court in *Graham* stated that "the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved." *Graham*, 383 U.S. at 17, 148 U.S.P.Q. at 467. The *Graham* court further stated that "[s]uch secondary considerations as commercial success, long felt but unsolved needs, failure of others, etc., might be utilized to give light to the circumstances surrounding the origin of the subject matter sought to be patented. As indicia of obviousness or nonobviousness, these inquiries may have relevancy." *Id.*

Claims 3, 6, and 7 depend, either directly or indirectly, from Claim 1, an independent claimed believed by Applicant to be allowable over the cited prior. In order for a claim to be obvious, the combination of the prior art references must teach or suggest all of the claimed limitations. Because Sloan does not teach all of the limitations of Claim 1, the missing elements must be suggested or taught by the secondary prior art reference. Vogt discloses a switch monitoring arrangement useful for debouncing a circuit. Murai discloses an omnidirectional move-stop sensor utilizing piezoelectric members to generate a signal when movement occurs.

As discussed with respect to the rejections under 35 U.S.C. § 102, Sloan does not disclose all the limitations of Claim 1 from which Claim 3 depends. The examiner combined Sloan and Vogt to reject Claim 3 as obvious. Without regard to the limitations of Claim 3, Vogt does not teach or suggest the limitations of Claim 1 missing from Sloan as discussed above. Accordingly, the examiner has failed to make a *prima facie* case of obviousness with respect to Claim 3.

Similarly, the examiner has combined Sloan and Murai to reject Claims 6 and 7 as obvious. Without regard to the limitations of Claims 6 and 7, Murai does not teach or suggest the limitations of Claim 1 missing from Sloan as discussed above. Accordingly, the examiner has failed to make a *prima facie* case of obviousness with respect to Claim 6 and 7. Applicant respectfully requests that the examiner withdraw the rejections under 35 U.S.C. § 103(a).

Claim 13 has been cancelled without prejudice. Accordingly, the examiner's rejection of Claim 13 under 35 U.S.C. § 103(a) has been rendered moot.

Claim Objections

The examiner has indicated that Claims 4 and 5 would be allowable if rewritten in independent form, including all of the limitations of the base claim and any intervening claims. Applicant has rewritten Claim 4 as independent Claim 24. Claim 5 has been amended to maintain proper dependency.

Claim Corrections

Claim 14 has been allowed by the examiner. Applicant has amended Claim 14 only to include a semi-colon inadvertently omitted after the end of the first limitation. No other changes to the claim have been made. Accordingly, Applicant respectfully submits that Claim 14 and the claims depending therefrom remain in condition for allowance.

New Claims

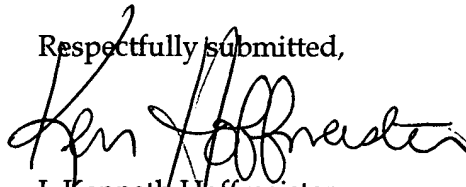
Claim 23 has been added for consideration by the examiner. Applicant respectfully submits that Claim 23 does not introduce any new matter and does not require a new search.

Summary

In view of the amendment of Claim 14, the addition of Claim 23, the cancellation of Claims 12 and 13, without prejudice, and the arguments presented herein, it is believed that the above-identified patent application is in a condition for the issuance of a Notice of Allowance. Such action by the examiner is respectfully requested. If, however, the examiner is of the opinion that any of the drawings or other portions of the application are still not allowable, it will be appreciated if the examiner will telephone the undersigned to expedite the prosecution of the application.

Please charge any additional fees associated with this communication, or credit any overpayment, to Deposit Account No. 16-1910.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ken Hoffmeister". The signature is fluid and cursive, with the first name "Ken" being more prominent than the last name "Hoffmeister".

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APPENDIX OF AMENDED DRAWINGS FIGURES